

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MARTIN J. WALSH,)	
SECRETARY OF LABOR,)	
U.S. DEPARTMENT OF LABOR,)	
)	
Plaintiff,)	CIVIL ACTION FILE
)	NO. 4:22-cv-3246
v.)	
)	
PACKERS SANITATION SERVICES,)	
INC., LTD.,)	
)	
Defendant.)	

DECLARATION OF NANCY ALCANTARA

I, Nancy Alcantara, declare under penalty of perjury, as prescribed in 28 U.S.C. § 1746, that the following is true and correct:

1. I am the Acting Director of Enforcement for the Midwest Region of the United States Department of Labor, Wage and Hour Division's Regional Office. I am also an investigator assigned to investigate the Defendant's compliance with the child labor provisions of the Fair Labor Standards Act ("FLSA"). As part of my Acting Director of Enforcement duties, I assist District Directors and Assistant District Directors in nine District Offices to review and evaluate all aspects of cases to ensure findings are supported by evidence. I provide constructive feedback to District Offices to ensure all policies and procedures are followed in investigations. I work closely with three Regional Solicitor's Offices and the Wage and Hour National Office to help determine cases are suitable for litigation.

2. I began as a Wage and Hour Investigator with the Wage and Hour Division in September 2009 in the Chicago District Office. I conducted two hundred and twenty

four (224) investigations as the lead investigator and assisted with an additional two hundred and thirteen (213) cases during my tenure as an investigator. I also conducted investigations of employers under various other laws that the Wage and Hour is charged with enforcing, including the FLSA. I became Deputy Director of Enforcement in October 2019 to the Midwest Regional Office in Chicago, Illinois. I was temporarily promoted to Acting Director of Enforcement in August 2022. I have been involved in hundreds of cases over the past thirteen (13) years, both as lead investigator, Deputy Director, and Acting Director that had child labor components to them. These include cases in which minors were injured or working outside permitted daily and weekly hours.

3. The statements made herein are based on my training and experience, my personal knowledge, observations made during the execution of the warrant involving Defendant (as discussed below), as well as conversations with representatives and employees of the Defendant in this matter.

The Defendant

4. Packers Sanitation Services, Inc., Ltd., which may also operate as or do business as Packers Sanitation Services, LLC, (“PSSI”) is a cleaning and sanitation company that provides contract work at meat processing facilities. The PSSI location at 515 W. 3rd Street, Grand Island, Nebraska 68801, is a workplace where PSSI currently recruits and signs-up employees to work for PSSI at a meat processing facility located at 555 South Stuhr Road in Grand Island. The meat processing facility is owned and/or operated by JBS USA or one of its affiliates (“JBS”).

5. The Grand Island JBS facility is approximately 8,700 square feet and contains two main areas: a harvesting area (also know as the kill floor) and fabrication

area. Within these areas, there are several specialized departments. I reviewed a list of equipment provided by JBS of machines in these departments, which include industrial-size conveyors, horn cutters, head chains, split saws, bone clippers.

The Investigative Findings

6. On August 24, 2022, the Wage and Hour Division initiated an investigation of PSSI to determine whether its practices complied with the FLSA, including its child labor provisions.

7. Prior to opening its investigation, Wage and Hour received a referral about possible child labor violations at PSSI in Grand Island from another law enforcement agency.

8. On August 31, 2022, I visited the Grand Island Middle School at 1600 North Custer Avenue, Grand Island, NE 68803. Regional Enforcement Coordinator (“REC”) Shannon Rebolledo accompanied me on the school visit. We met with their staff to discuss concerns regarding middle-school aged students performing work overnight at local animal processing plants. At this time, we electronically served a subpoena for school records.

9. On September 1, 2022, I visited the Grand Island High School along with REC Rebolledo and Wage and Hour Investigator (“WHI”) Guadalupe Montes. We met with staff to discuss concerns regarding high-school aged students performing work overnight at local animal processing plants. Pursuant to our subpoena, the school district provided us additional records.

10. Later that same day, I conducted surveillance at the JBS facility located at 555 South Stuhr Road. REC Rebolledo also assisted with the surveillance. We observed workers of Latin descent enter one of two main entrances at JBS. Workers began to arrive in groups of two to three at about 10:45 p.m. Workers arrived on a staggered basis until

about 11:42 p.m. Some workers were dropped off while others arrived in a personal vehicle and parked in the parking lot across the street from the facility. We observed the majority of workers manually sign-in, while other scanned in on a turnstile in the security guard shack. At about 12:00 a.m. (September 2, 2022), I began to observe what appeared to be JBS workers exit the building. Some workers still wore steel-toe boots and large coats. These workers appeared to be adults compared to the younger-appearing workers whom I initially observed entering the building, based on observations of build and stature.

11. As part of Wage and Hour's initial investigation of PSSI, I reviewed documents from confidential sources regarding at least three minor workers who formerly worked for PSSI at the JBS facility.

Obtaining and Executing Warrants

12. Wage and Hour obtained warrants from U.S. Magistrate Judge Michael D. Nelson, District of Nebraska, authorizing Wage and Hour to enter PSSI's storefront facility at 515 W. 3rd Street and the JBS facility at 555 South Stuhr Rd., and "to make an inspection and investigation into violations of the Fair Labor Standards Act, including child labor violations[]" including, but not limited to, "time records of PSSI workers and/or employees, identification documents and records reflecting the age of workers and employees of PSSI, tax records, PSSI corporate records, surveillance videos, and other records or documents as the investigators may deem necessary or appropriate." The warrant also allowed for "questioning privately any employee or agent, and the taking of photographs and videos."

13. Wage and Hour also obtained warrants from U.S. Magistrate Judge Jill A. Morris, Western District of Missouri, authorizing Wage and Hour to enter PSSI's storefront facility at 2613 S. Limit Avenue, Sedalia, Missouri 65301, and the Tyson production

facility at 19571 Whitfield Road, Sedalia, Missouri 65301, and “to make an inspection and investigation into violations of the Fair Labor Standards Act, including child labor violations []”, including but not limited to “time records of PSSI workers and/or employees, identification documents and records reflecting the age of workers and employees of PSSI, tax records, PSSI corporate records, surveillance videos, and other records or documents as the investigators may deem necessary or appropriate.” The warrant also allowed for “questioning privately any employee or agent, and the taking of photographs and videos.

14. On October 13, 2022, I participated in the execution of the warrants on the Grand Island PSSI storefront and the Grand Island JBS facility during the workers’ shift.

15. I arrived at the plant located at 555 South Stuhr Road at about 11:45 p.m. on October 12, 2022. WHI Cristina Lopez and REC Rebolledo accompanied me for the inspection, as discussed below. WHI Lopez and I were located at the primary entrance, while REC Rebolledo observed the secondary main entrance in another vehicle. I observed a number of employees enter and exit the JBS facility.

16. At approximately 2:00 a.m., WHI Fatmir Kote, WHI Edith Cardenas-Michmerhuizen, WHI Xiomara Martinez, and WHI Tom Phelan arrived at the JBS facility. WHI Kote, WHI Phelan, and I entered the facility at 2:04 a.m. and produced a copy of the warrant to the two security guards at the main entrance. Meanwhile, REC Rebolledo, WHI Cardenas-Michmerhuizen, and WHI Martinez remained outside the facility to maintain a visual on the secondary guard shack. While we waited to be allowed entry, I began to scan log in/out sheets for PSSI workers located at the main entry. The male security guard subsequently brought two PSSI supervisors, Marina Ramirez and Gregorio Acosta, who were officially served with the PSSI warrant and permitted entry into the JBS facility.

Observations at the JBS Facility

17. Ms. Ramirez and Mr. Acosta denied having an office space at the JBS facility. Ms. Ramirez stated all paperwork was maintained at the 515 W 3rd Street location. Pedro Montanez (another PSSI supervisor) and Jaime Jasso (JBS supervisor) also joined the group on a staggered basis on the second floor. All individuals repeatedly questioned our authority to be in the facility. I advised of the warrant and the nature of our visit and intent to do a tour of the facility.

18. A tour of a facility is routine in the investigative process for Wage and Hour. The purpose of the tour is to understand the business operations, observe the machinery being used, observe workers perform their job duties to understand the extent and nature of work being performed, and get a head count of workers in the business establishment.

19. Ms. Ramirez explained the facility was divided into two main sections: Harvesting and Fabrication side. The area between the Harvesting and the Fabrication side is called the Cooler. The Harvesting side is commonly known as the killing floor or kill floor. Ms. Ramirez explained there were about 64 PSSI workers currently on the Harvesting side and about 126 workers on the Fabrication side. This is a total of about 190 PSSI workers. She indicated the workers could be distinguished by the color of hardhat they wore: white hats are production workers, red hats are leads, blue hats are supervisors, green hats are safety managers, and light green hats are trainers.

20. I observed an Asure time clock located in the cafeteria area on the second floor. The time clock had instructions on the screen. The instructions read "Please clock in before putting on PPE and take PPE off before clocking out." Mr. Acosta stated all PSSI workers used this time clock.

21. PSSI supervisors provided personal protective equipment (PPE) to WHIs Cardenas-Michmerhuizen and Lopez, who began to tour the Fabrication side of the facility with Mr. Montanez.

22. After putting on PPE, I started to tour the Harvesting side/kill floor of the JBS facility. We toured Areas 1 through 4 of the Harvesting side and observed several employees who appeared to be under 18-years-old. We approached the employees to obtain names and telephone numbers and distributed business cards. We observed several machines taking up the entire rooms. PSSI workers cleaned by hand or with large hoses. I observed some workers pour chemicals into large containers connected to hoses. Ms. Martinez explained the cleaning process during the tour of the kill floor. The labels had warnings and instructions about the proper handling. The hoses were used to spray the machines to clean. One chemical on the kill floor was called KC-568. This is a heavy-duty highly caustic cleaner. Another chemical was called KC-515. This chemical contains 12.5% of Sodium Hypochlorite and 87.5 % of Other Ingredients. I took pictures of these chemical labels and a picture of a worker pouring the chemical in this cleaning equipment.

23. Ms. Ramirez stated it took about 110 workers to clean Areas 1 to 4. About twenty-two (22) PSSI workers clean Area 1 known as the “dirty side”. About forty-one (41) PSSI workers clean Area 2 known as the “knocking box” or the “clean area”. About three (3) workers clean the part of Area 3 known as the “coolers.” About seventeen (17) workers clean the part of Area 3 known as the “new fab.” About eighteen to twenty (18-20) workers clean the part of Area 3 known as “the old fab.” About seven (7) workers clean the part of Area 4 known as “case ready.” The tour of the kill floor took about an hour. This was partly due to the size of the area and also due to the stalls and delays by PSSI staff.

24. During the tour of the facility, Mr. Acosta and Mr. Jasso repeatedly told WHI Martinez, REC Rebolledo, and me to stop taking pictures and videos and to delete those already taken. I stated we had the authority to take pictures and videos and referred to the language in the search warrant.

25. At about 4:30 a.m., I met with a JBS Human Resources Representative, Robert Meier, to obtain access to JBS's C-Cure 9000 system. This system takes pictures of JBS employees and contractors performing work on their premises and generates physical badges for JBS workers and contractors to access the JBS facility. All JBS contractors, including PSSI workers, are required to have a JBS badge from this system. I requested the images, name, and date the picture was taken be downloaded or exported to an external hard drive. Mr. Meier telephoned several points of contact in his corporate office who worked remotely, but no one was available to provide assistance.

26. After about thirty minutes of failed attempts to get assistance, I began to take pictures of their computer screen. I focused on taking pictures of PSSI workers who appeared to be under the age of 18. I took pictures of three screens in the C-Cure 9000 system. The first screen picture contains the name of the worker. The second screen picture contains the date the picture was taken and photo identification activated. The third screen picture contains the photo of the PSSI worker.

27. I was advised that PSSI supervisors at the JBS facility were in possession of PSSI-work related information on their cellular phones. I called WHI Phelan to continue to take pictures of the computer screen, while I spoke to PSSI supervisors about the cell phones. I made contact with Ms. Ramirez and Mr. Acosta. Both supervisors confirmed the phone in their hands was their PSSI work phone. I requested they both call me so that their phone number could be registered in my work cell phone.

28. I asked two additional PSSI supervisors – Aida Ayala and Adolfo Sosa – if the telephone in their hands were their work phones. They confirmed the telephone devices in their hands were used for PSSI-related work matters. During this exchange, I peeked over and saw Ms. Ayala was archiving and deleting WhatsApp messages. WhatsApp is a platform that allows voice calls and messaging capabilities. I told her she could not delete anything and took the phone away from her. I asked why she had deleted the messages, but she denied doing so. After further communication with PSSI counsel, I did not inspect the PSSI supervisors' telephones.

29. I spoke to JBS Safety Manager Betty Dugger to request injury logs maintained for PSSI workers. She denied having any logs in her possession. Ms. Dugger said she did not treat any injuries for PSSI workers and that was solely PSSI's responsibility. The JBS HR Representative, Mr. Meier, was present during this conversation.

30. At the facility we were able to obtain PSSI's Plant 112 spreadsheets for approximately March 2022 through August 2022. These spreadsheets list the workers' names, supervisors, training, date of hire, and area of work performed.

Observations at the PSSI Storefront

31. At about 8:00 a.m. on October 13, 2022, I traveled to the PSSI storefront located at 515 W 3rd Street in Grand Island. A search warrant was served at this PSSI storefront. This warrant was served by REC Rebolledo. Office Manager Linda Rodriguez was at the storefront location with Aida Ayala and another female PSSI plant supervisor. There was at least one other male PSSI worker. His name is unknown at this time.

32. Ms. Rodriguez gave us access to her office. She explained she used one main laptop computer for her official business use. She also said she had at least two

additional laptop computers for PSSI applicants use. Ms. Rodriguez explained how she assisted PSSI applicants when completing the online applications in her office. She confirmed she obtained the photo identification from applicants, scanned the picture to corporate, and destroyed the physical copy if one was made. She explained she would review the online applications, interview the workers, and send all information to corporate via the Talent Reef portal. This process was confirmed when reviewing Ms. Rodriguez's registered scans in her laptop computer.

33. Ms. Rodriguez showed me binders containing other onboarding processes, such as the distribution of personal protective equipment, new hire logs, online registration of pay cards, and termination notices. I collected some electronic records.

34. I also scanned pages from Ms. Rodriguez's notebook containing names, email addresses, and passwords for PSSI workers. Ms. Rodriguez stated she assisted PSSI workers with creating online accounts for payroll and other online services since workers were often not technologically savvy.

Interviews with Minor Children

35. I speak and write Spanish fluently. I communicated with PSSI supervisors Marina Ramirez, Aida Ayala, Adolfo Sosa, and Gregorio Acosta in both Spanish and English. I also communicated with minors in Spanish.

Minor Child A

36. On September 2, 2022, I spoke to Minor Child A. During our interview, Minor Child A stated they worked at the JBS facility from Monday through Friday, 10:00 p.m. to 7:00 a.m.

37. I reviewed the student profile with a photo of Minor Child A. I also reviewed the JBS photo identification for Minor Child A. From these two documents and

using my direct observation of Minor Child A's appearance, I determined the minor was the same individual performing work at JBS. I also reviewed PSSI's Plant 112 spreadsheets. These spreadsheets list the workers' names, supervisors, training, date of hire, and area of work performed. These spreadsheets state Minor Child A worked on the kill floor. I also reviewed PSSI's Asure time records. These records indicate Minor Child A worked overnight shifts.

Minor Child D

38. On October 14, 2022, I witnessed the interview with Minor Child D at Minor Child D's home. During the interview, Minor Child D stated they began to work for PSSI in early 2022 at age 17. Minor Child D worked cleaning by hand in Area 2 on the kill floor. They worked 11:30 p.m. until 6:00 a.m., six or seven days per week.

39. I reviewed a photo of the JBS identification with Minor Child D's picture. I also reviewed the PSSI Plant 112 spreadsheet showing Minor Child D worked on the kill floor.

Minor Child M

40. On October 14, 2022, I witnessed the interview with Minor Child M at Minor Child M's home. During the interview, Minor Child M stated they are 17-years-old. Minor Child M worked for approximately two weeks at PSSI cleaning the kill floor. Minor Child M attends school with many other students who also work for PSSI at JBS.

41. I reviewed the student profile for Minor Child M and verified their date of birth. From this review, I confirmed Minor Child M worked at JBS while 17-years-old.

Return to JBS Facility

42. On October 14, 2022, I returned to the JBS plant at 555 South Stuhr Road. The purpose of the return visit was to return several PSSI binders after we had made copies

of the documents. WHI Cardenas-Michmerhuizen, REC Rebolledo, and I waited in the security guard shack for a PSSI supervisor. The security guard stated that many PSSI workers had not showed up to work the night of October 13, 2022, or had showed up to sign-in on the log but walked back out of the facility.

43. We met with Ms. Ramirez to return the binders. I observed she was wearing a green hat and safety gear, indicating she was cleaning instead of supervising as she normally did. I also observed the JBS plant manager wearing the same type of safety gear. He also stated he had not gone home since the night of our visit and was helping clean the JBS facility. Mr. Montanez had the receipt for the three binders. We continued to wait for Mr. Montanez with HR Representative Meier in their conference room. We received the signed receipt from Mr. Montanez and left the facility.

44. JBS HR Representative Meier was able to get assistance from his corporate office to export the PSSI photo identifications. Four different versions and formats have been provided. The first export was an Excel sheet produced on October 13, 2022. The images in this file were not viewable. The second export was in a PDF on October 14, 2022. This file was still not clear. A third export was produced in a PDF on October 20, 2022. This file contained an error and could not be opened. A fourth export was in a PDF file on October 26, 2022. This file contains better quality photo identification of PSSI workers.

45. The Fabrication Area contains the following areas: Lower Sales Cooler, Old Fab, Loin Room, New Fab, Meat Master Room, Combo Storage, Pack-Off, Ground Beef, and Case Ready-Value A area.

46. The Combo Storage and The Pack-Off Area do not contain any hazardous machines. All other areas in the Fabrication area contain some sort of cutting, slicing, or

dicing machine considered hazardous as defined in Hazardous Order No. 10 under the Fair Labor Standards Act.

47. Wage and Hour continues to review evidence gathered and records collected from PSSSI's storefront at 2613 S. Limit Avenue in Sedalia, MO, and the PSSSI workplace at the Tyson production facility at 19571 Whitfield Road, also in Sedalia.

Executed on this 7th day of November, 2022.

**NANCY
ALCANTARA**

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Nancy Alcantara
Acting Director of Enforcement
Wage and Hour Division
U.S. Department of Labor